

2007 Arbitration Awards - Minnesota B.M.S.

May 3, 2012

Summary of Arbitration Awards listed on the Bureau of Mediation Services' web site (<http://www.mn.gov/admin/bms/arbitration/awards/>).

"Sustained" means the grievance prevails overturning the original action. "Denied" means the original action prevails.

December, 2007

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
FMCS	American Iron and Steel Company UER & M Workers of America, #1139	Lundberg, James	Termination	Employee failed to drain fluids from a crane that was being cut for scrap.	Denied	Employee claimed he forgot, but evidence showed insubordination.
07-PN-0414	Beltrami County (Interest Award) Teamsters, Local 320	Jacobs, Jeffrey	Interest	Attorney's 1st contract. Wages and schdl-c (c offered 2.5% per yr-despite pattern of 2.5,3 &3); Longevity-u; Comp time-no-c; Mngmnt Rgts-c; Waiver clause-u; Drug Testing-no-u;	2006 - 2.5% 2007 - 3% 2008 - 3%	Wages,Longevity, Waiver clause, Drug Testing - internal patterns. State Bar fee & professional fee-no-c; Retro flex benefits-yes-u.
06-PN-0874	Dodge County (Interest Award) Law Enforcement Labor Services, Inc.	Miller, Richard	Interest	2 yrs-u (e-3y); 2006-3%, 2007-2.8%-u (e-2.5% each yr); wage step change-e Uniforms-\$650, \$700-u; receipt based-e. Incr call back-no-e; Shift diff \$.30-u Longevity-no-e; FTO pay-no-e; Sunset retiree insur-no-u.	2006 - 3% 2007 - 2.8%	Duration-history of 2 yrs; lack of data for 3rd y. Wages=avg of Region 10. Shift differential,new benefit which is common in Region.
FMCS	Dotson Company, Inc. Glass, Molders, Pottery, Plastics and Allied Workers, Local 142B	Gallagher, Thomas	Written Warning	Two ees received warnings due to leaving work area and visiting for 27 minutes.	Denied	Past lax enforcement would have been considered if this was a termination case. Lack of invest. prior to disclpne not fatal since ER willing to rescind if given a reason.
FMCS	Dotson Company, Inc. Glass, Molders, Pottery, Plastics and Allied Workers, Local 142B	Lundberg, James	Negotiating with an employee.	Negotiated a weekend flex schedule with an employee.	Sustained	Although contract allows flexing exclusive weekend work is in conflict with contracts weekend premiums.
07-PN-0721	Faribault, City of (Interest Award) Firefighters, Local 665	Jacobs, Jeffrey	Interest	Wages and insurance.	2007 - 3.25% 2008 - 3.25%	Final offer, employers position.
FMCS	Fairview University Hospital SEIU, Local 113	Jacobs, Jeffrey	Information Requests	Requirement that grienance info requests be in writing challenged.	Denied	No bar to requirement in contract. Should rely on common sense.
FMCS	Federal Bureau of Prisons American Federation of Govt Empl.	Daly, Joseph	Bargaining over Safety Equipment	Request that ER return to table to negotiate re Safety Equipment.	Denied	ER has Contract right to determine safety needs.
FMCS	Flint Hills Resources USW Local 7-662	Lundberg, James	Withholding Performance Pay	Received a verbal reprimand for an accident and P-Pay withheld.	Denied	Unsafe condition created when he continued working w/o helper.

06-PN-0614	Goodhue County (Interest Award) Law Enforcement Labor Services, Inc.	Miller, Richard	Interest	1 yr-u (c-3 yrs), 2006-2.5%-c (u-5%); Increase Hol. Vac. & Sick-no-c; inc. Hol premium & out of class pay-no-c.	2006 - 2.5%	Wages - internal pattern; benefit increases- Union failed its burden of proof. Duration-history, lack of data, and new BA.
FMCS	Honeywell International, Inc. Teamsters, Local 1145	Anderson, Richard	Clarification of August Award	EE signed up for early retirement before termination. Can he revoke that election due to make whole award?	Employer's position.	ER can honor earlier election in spite of EE's change of heart.
FMCS	Honeywell International, Inc. Teamsters, Local 1145	Daly, Joseph	Termination	EE under influence of alcohol at work	Denied	Long term employee, but with 4 major disciplines.
07-PA-1034	Metropolitan Council AFSCME Minnesota Council 5	Sherwood	Termination	Fraudulent workers comp claim filed by ee who claimed she fell on ERs property.	Denied	Workers have been consistently fired for filing fraudulent workers comp claims.
???	Minneapolis, City of Police Officers Fed. of Minneapolis	Beftor, Stephen	Termination	Sgt. went drinking with another sgt.; allowed him to drive; failed to inform IA.	40 hour susp.	Main issue-on or off duty? He used comp time therefor discipl based on failure to report incident to I.A.
???	Minneapolis, City of Police Officers Fed. of Minneapolis	Lundberg, James	Termination	Officer guilty of carrying firearm while under influence of alcohol & barred from carrying firearm for 1 year.	Denied	He lost the ability to carry out an essential job requirement.
07-PA-1126	Minneapolis Public Housing Authority AFSCME Minnesota Council 5	Miller, Richard	Seniority Selection	Junior employee selected based on interview. Grievant claiming seniority	Denied	Relative ability clause in contract. Interview is appropriate tool for ranking candidates.
07-PA-0894	Minnesota, State of, Judicial Branch AFSCME Minnesota Council 65	Lundberg, James	Written Reprimand	Court clerk commented on woman's upcoming marriage in front of child who did not know about it.	Sustained	Union able to prove it could not happen as alleged due to layout of beauty parlor location.
07-PA-0788	Minnesota, State of, Dept of Corrections State Residential Schools Education Assn	Bognanno, Mario	Arbitrability	Union sought arbitration on a written reprimand. EE denied because step 4 requesting arbitration was sent to the BMS vs DOES Dep Comm.	Denied	Contract language clear. Copying Deputy Commissioner is not adequate.
06-PA-1191	Minnesota, State of AFSCME Minnesota Council 5	Flagler, John	Extending Medical Leave	State's refusal to extend 1 yr medical leave was unreasonable.	Denied	Unable to return to work due to permanent physical limitations.
07-PA-0917	Mower County AFSCME, Council 65	Bryant, Bernardine	Subcontracting	County subcontracted overflow child welfare case management.	Denied	Contract silent re sub-contracting. Union did not suffer harm.
07-PA-1091	Northfield, City of Operating Engineers Local 70	Miller, Richard	Holiday Pay for Part time ee	City failed to pay part-time bus driver claiming Recognition clause barred her from union.	Sustained	Exclusion of part-time employees refers to those under 14 hrs per week & not public employees.
FMCS	Prospect Foundry, Inc. Glass, Molders, Pottery, Plastics and Allied Workers, Local 63B	Lundberg, James	Termination	EE came to work sick, sent home by supervisor & charged for violating attendance policy & over points limit.	Sustained	Employer should have allowed ee to use vacation day, since they sent ee home.
07-PA-0158	St. Louis County AFSCME Minnesota Council 5	Lundberg, James	5 shift susp.	Nurse supervisor refused to send nursing home patient to hospital.	Denied	Nurse failed to check patient before refusing request to send to hospital.

07-PN-0505	St. Paul, City of (Interest Award) St. Paul Police Federation	Lundberg, James	Interest	Wages: 2007-2.5%, Officers step B-10yrs additional .5% July 1-u (emplr 2.5%; u-step b-10y 3.25%)	2007 - 2.5%	Internal pattern 2.5%. Additional .5% for steps B-10y to maintain market position.
07-PA-1166	Scott, County of Operating Engineers, Local 49	Kircher, Andrea	Termination	allergic to red dye used in diesel fuel. allergic to red dye used in diesel fuel.	Denied	Not considered a disability - not necessary to seek accommodation.
FMCS	Smurfit-Stone Container Corporation USW District 11, Local 1259	Lundberg, James	Termination	Machine helper was cited for an error and pushed another employee. Returned to work without backpay.	6 month susp.	Disparate treatment. Co-worker not disciplined for language that started incident.
FMCS	Walter G. Anderson, Inc. United Steelworkers, Local 1259	Lundberg, James	Termination	Repeated quality errors by operator of a package gluing machine.	Denied	Given warnings & training. Refused to bid less responsible position.

November, 2007

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
07-PN-0661	Anoka County (Interest Award) Law Enforcement Labor Services, Inc.	Anderson, Richard	Interest	Work release officers. 1 yr-u (e-3y);. Wages-3% (e-2%, u-6%);merit-3% (e-2%, u-5%); shift-\$5-u; PTO me too language-e; OT-no change-u; stability calculation-no-e.	2007 - 3%	Duration-no internal pattern 08-09; wages/merit-internal (corrections); Language changes-party proposing must show need.
08-PA-0083	Duluth, City of Duluth Police Union	Flagler, John	Involuntary Transfer	Senior patrol sergeant transferred to to Family Crimes Unit.	Sustained	No persuasive, substantial facts that justify ingnoring seniority.
07-PA-0918	Fergus Falls, City of Teamsters, Local 320	Scoville, James	Termination	Liquor store ee violated policies re taking time off, use of breakroom, socializing.	Sustained	Repeated failures to discipline "muddled the waters."
FMCS	Immanuel St. Joseph's Hospital-Mayo Health Center AFSCME, Minnesota Council 5	Jacobs, Jeffrey	Termination	Employee on FMLA did not return on the day scheduled.	Sustained	Employer had been accomadating & not clear on new expectations.
???	ISD 318, Grand Rapids Education Minnesota	Latimer, George	Meet & Confer	Failure to meet and confer re online learning collaborative..	Sustained	Rejected arguments of statutory rights due to contract language.
07-PA-0016	ISD 622, North St. Paul-Oakdale-Maplewood North St. Paul/Maplewood Education Assn.	Jacobs, Jeffrey	Involuntary Assignment	Teacher bid for a posted as 1 year. Grieved return to previous assignmnt.	Sustained	Nothing in contract re temporary positions.
???	Minnesota, State of, Department of Human Services Minnesota Association of Professional Employees	Miller, Richard	Weather based emergency leave	Employee at Moose Lake seeking empergency leave for snow event.	Split	Determination of who is weather essential must be determined case by case..

FMCS	Lund's Food Holdings, Inc. UFCW, Local 789	Befort, Stephen	Termination	19 violations of attendance policy which calls for termination after 16.	10 day susp.	3 with more violations not fired. Has shown improvement.
07-PN-0824	New Hope, City of (Interest Award) Law Enforcement Labor Services, Inc.	Neigh, Charlotte	Interest	07-08-e (u-3 yrs); Comp time for Capt-no-3; Admin Sergeant 6.5%-u (e-0%).	Union position	Council rejected neg settlement - main issue admin sgt.
07-PN-0824	New Hope, City of (Clarification) Law Enforcement Labor Services, Inc.	Neigh, Charlotte	Interest	Administrative Sgt pay effective 1/1/2007	Union position	City sought clarification.
06-PN-0871	Orono, City of (Interest Award) Law Enforcement Labor Services, Inc.	Miller, Richard	Interest	06-3%-e (u-5%); 07-4% (u-5%,e-3%); Insur-e; Comp incr 40 to 60 hrs-no-e; Premium pay-no-e; Severance incr-u.	2006 - 3% 2007 - 4%	06-internal, 07-market; Insur-intrnl; Severance-external.
FMCS	Paulson's Super Valu, Inc. UFCW, Local 116	Anderson, Richard	Failure to fill vacant position	Contract bar to filling full time position with 2 part-time.	Denied	Missed timeline by 7 months and no contract violation.
06-PN-0605	Ramsey County (Interest Award) Teasmeters, Local 320	Miller, Richard	Interest	Sergeant's wages-counties position. Union 3.5% each yr plus adjustment to steps = to 10% above corrections	2006 - 2% 2007 - 2% 2008-1.5/1.5%	Internal pattern. Pay equity points suggest corrections should be frozen. Sgts compare to extnl mkt.

October, 2007

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
FMCS	Badger Equipment Company UAW, Local 633	Imes, Sharon	Out of title pay	Temporary transfers to higher class should receive higher pay.	Sustained	Not doing all duties of classification was rejected.
07-PA-0948	Becker County Teamsters, Local 320	Gallagher, Thomas	Seniority for promotion	Seniority language for full time, not part time employees.	Denied	Legal maxim - the expression of one thing excludes the other.
FMCS	Conagra Foods, Inc. Bakery Wokers, Local 13G	Imes, Sharon	Discharge	Violated zero tolerance safety rule re locking out machine.	Sustained	Unilateral right to establish work rules but subject to just cause challenge.
07-PN-0383	Duluth, City of (Interest Award) Duluth Police Union	Bard, Stephen	Interest	Wages:2%,3%,3% (c-1,3,3; u-3,3,4); Eliminate retiree insurnace for new ees-e (\$12,000+1%/yr into HCSP) Health club- \$30 per mo-u.	2007 -2% 2008 -3% 2009 -3%	Wages-external plus CPI. Insurance internal pattern. Health club same as firefighters.
FMCS	Fairmont Medical Center Minnesota Nurses Association	Bognanno, Mario	Termination	Nurse went on vacation w/o finding a replacement as required for 5 shifts.	Denied	Contract considers such absences as job abandonment & resignation.
07-PA-0251	ISD 2168, New Richland Harland Geneva New Richland Hartland Geneve Education Assn.	Jacobs, Jeffrey	Weather based make-up-day	2 teachers did not work make up day as scheduled but completed work required and were seeking pay.	Denied	District has the right to set schedule. Numerous arbitrations dealing with this issue are listed.
07-PA-0912	Metro Transit Amalgamated Transit Union Lcal 1005	Boyer, John	Termination	Driver given 10 day susp for accident, then fired for lying about details.	Denied	Not a second discipline, but based on totality of record.
07-PA-0732	Minnesota, State of - Department of Taransportation AFSCME Minnesota Council 5	Holmes, Barbara	Work Rules - class action	State modified Snow & Ice call in plan so that ee coming in late is marked leave no pay for time missed.	Denied	Union denied ability to substitue vac time for missed time on Snow shift.

September, 2007

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
07-PA-830	Community Action Partnership of Ramsey and Washington County AFSCME Minnesota Council 5	Jacobs, Jeffrey	Termination	Teacher grabbed young child's arm in an abusive manner vs Union claim - teacher caught child who was jumping off a counter.	Sustained	Lack of evidence. Second teacher in room was not called to testify.
07-PN-0021	Eagan, City of (Interest Award) Law Enforcement Labor Services, Inc.	Paull, David	Interest	Sgts; Wages: 06-3%-e (u-4%); 2007-3.75%-u (e-3% or 3/1 if cap on tuition) Tuition cap-no-u; 2 x major Hol-no-e; Vac accrual incr-no-e; longevity-no-e; 4% for Master's-no-e; 3 h crt call back -u; Waive Retiree Ins for \$.80/hr-no-u.	2006 - 3% 2007 - 3.75%	Wages: 2006-internal pattern; 2007; external. Vac - internal; Court call back same as officers;
FMCS	Honeywell, International Inc. Teamsters, Local 1145	Anderson, Richard	Termination	Violated time and attendance policy.	Denied	Prior discipline and clearly stated guidelines.
07-PA-0893	ISD 112, Chaska IUOE, Local 70	O'Toole, Carol	Reorganization	Head Engineer title eliminated. All engineers then hired as Building Operations Coordinators - a supervisor. position outside the union.	Sustained	They continued doing bargaining unit work.
07-PA-0639	ISD 318, Grand Rapids Education Minnesota, Grand Rapids	Bognanno, Mario	3 day suspension	Special needs teacher shouted at & grabbed 4 yr old's arm to stop him.	Denied	Prior discipline for similar incidents.
05-PA-0387	Minnesota, State of, Minnesota Operated Community Services AFSCME Minnesota Council 5	Befort, Stephen	Unpaid leave	Health service worker put on unpaid leave pending outcome of background check to establish min qualifications..	Denied	Contract requires paid admin leave for investigating discipline. This was to determine eligibility for job.
07-PN-0695	New Hope, City of (Interest Award) Law Enforcement Labor Services, Inc.	Kircher, Andrea	Interest	Uniforms-change from provide system to allowance-no-e; Incr sick leave into PRHCSP from 16 to 24 hrs-no-e; PTO plan for new ees-no-u; Specialty pay increase-u.	Split	No change to Officer's uniform despite Sgt's receiving allowance since 1980s. Sick to HCSP same as Sgts; PTO not ordered in 2 prior arbitrations; Specialty pay based on externals.
07-PA-0586	Saint Paul, City of Saint Paul Police Federation	Befort, Stephen	10 day susp. 30 day susp.	Investigator unable to manage her case load after repeated counseling. Ended up retiring.	Split	10 day grievance denied. 30 day reduced to 15 days. Demotion is the next step & 30 leads to termination.
07-PA-0586	Sibley County (Interest Award) Law Enforcement Labor Services, Inc.	Gallagher, Thomas	Interest	Wages: 2.5%, 2.5%-u (e-1%,1%); Shift diff-no-e; Increase comp-no-e; Holiday pay if called back-no-e; Xmas eve pay change-no-u.	2007 - 2.5% 2008 - 2.5%	Wages exceed internal pattern, used CPI and externals in award.
07-PA-0845	University of Minnesota Teamsters, Local 320	Latimer, George	Layoff	U claims 2 were laid off due to lack of work. EEs claim anti-union retaliation.	Sustained	Language in letters and timing of lay-offs support union's claim.
07-RA-0877	USEM, Inc. UAW, Local	Gallagher, Thomas	Layoff and Termination	Car dealership laid off a utility man, terminated him after 1 year, then hired someone else the following year.	Sustained	No time limit on recall rights. No provision for termination w/o just cause.

August, 2007

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
FMCS	Alliant Techsystems, Inc. Teamsters, Local 1145	Flagler, John	Termination	Insubordination in refusing to accept training for stockroom job.	Denied	Claimed conflict with trainer. Rule is "do the work first, grieve latter."
06-PN-0526	Blue Earth, City of (Interest Award) Law Enforcement Labor Services, Inc.	Kapsch, Frank	Interest	Police; wages-u (u-5%,5%; e-0%,0%) wage structure-n-e; comp accrual-n-e uniform incr-no-e; vac, eliminate 2 tier-no-e; insurance \$ amt vs %-no-u.	2006 - 3% 2007 - 2.4%	Wages internal pattern. Other issues denied due to failure of proposing party to provide compelling need for change.
FMCS	Honeywell International, Inc. Teamsters, Local 1145	Anderson, Richard	Termination	Company investigated collusion of Labor Relations & Union in arbitration cases. Union head lied to investgtrs.	Sustained	Grievant was on leave of absence & acting as Union head. (see case below).
FMCS	Honeywell International, Inc. Teamsters, Local 1145	Befort, Stephen	Termination	Former head of Union lied during investigation re arbitration collusion.	Denied	Was back working for company when investigation took place. (see above).
FMCS	Honeywell International, Inc. Teamsters, Local 1145	Toenges, Rolland	Assigning work	Assembly workers doing inspections.	Denied	Not arbitrable based on earlier transfer of work agreement.
07-PA-0492	ISD 2687, Howard Lake Education Minnesota	Fogelberg, Jay	Overload Pay	Middle school teachers denied pay for teaching 6th class that High School teachers receive.	Sustained	Middle school replaced junion high where the practice was to pay.
07-PA-1001	ISD 720, Shakoe SEIU, Local 284	Latimer, George	Seniority promotion	Cook manager position filled with outside candidate.	Denied	Contract exception for manager. Dropping grievance no bar to future g.
06-PN-0511	Lac qui Parle County (Interest Award) AFSCME Council 65	Miller, Richard	Interest	Deputies/Jailers. Duration-3 yrs-e; 2006-3%-u (e-2.5%), 07-08 not in dispute; wage structure-no-e; Insur-u; on call \$250 to \$282/m-u; Holiday premium - no-e.	2006 - 3% 2007 - 2% 2008 - 2%	Duration, Wages, Insurance-internal pattern. On call-external average. Holiday - no internal nor external support.
06-PA-0990	Metropolitan Council Amalgamated Transit Union Lcal 1005	Befort, Stephen	Pay rate	Cleaner 3 job class is discriminatory since job is harder v others paying more.	Denied	Not arbitrable. Union negotiated a grade 13 for the position.
07-PA-0832	Metro Transit Amalgamated Transit Union Lcal 1005	Gallagher, Thomas	Termination	Another employee took a parking parking space. He followed her into work making a major scene.	Sustained	Incident differed from earlier final wrng. Unusual behavior, not misconduct . Must pass a fitness for duty exam.
07-PA-0919	Metro Transit Amalgamated Transit Union Lcal 1005	Latimer, George	6 mo evaluation	Union - 6 month evaluation requires 6 mo before decision can be made.	Denied.	Employer can set job qualifications. No requirement to keep ee who can't do the job.
FMCS	St. Marks Lutheran Home UFCW, Local 789	Anderson, Richard	Termination	LPN gave resident insulin shot in a public area & failed to do a pain assesment for resident that fell.	Sustained	Acts were not egregious but moved her to discharge step of disciplinary policy. Failed to establish just cause.
07-PN-0555	Sherburne County (Interest Award) AFSCME, Minnesota Council 65	Holmes, Barbara	Interest	Asst Co Attorneys. 2007 reopener to consider job study recommendations. Union seeking 4%-no.	County's Position	Pay ranges moved up, but not current wages unless below minimum.

06-PA-0972	Special School District 1 Minneapolis Federation of Teachers	Befort, Stephen	21 week susp	Teacher accused of touching & hitting students with a yardstick.	5 day susp.	Hearsay evidence from 6 yr olds. She did touch with ruler.
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July, 2007

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
04-PIR-1363	Alexandria HRA Independent Review Case	Daly, Joseph	Termination	HRA director kept pills scheduled for destruction intending to seek okay to keep them for her use.	Sustained	Nothing illegal,nor any policy violated. At Will ees are eligible for independent through the BMS.
07-PN-0300	Bemidji, City of (Interest Award) Law Enforcement Labor Services, Inc.	Gallagher, Thomas	Interest	2 yrs-u (e3-yrs); 2007-3.5%, 08-3.5% (e-3%,3%; u-6.5%, 6.5%); Ins-e Uniforms-+\$10, +\$10-u (no to provide system); Change standby-no-u.	2007 - 3.5% 2008 - 3.5%	Sgts - Duration-lack of data for 3rd yr. Wages-differential from patrol has shrunk; Insurance-internal pattern; Uniform & standby - changes should negotiated, not awarded.
FMCS	CenterPoint Energy - Minnesota Gas Gas Workers Union, Local 340	Frankman, Janice	Requiring use of computers	Union seeking additional pay for using computers to fill out forms.	Denied	Change in work was not significant & was reasonable.
FMCS	Fairview Lakes Regional Health Care Minnesota Nurses Association	Kapsch, Jr., Frank	Holiday OT	Employer did not pay holiday pay & OT for the same hours worked.	Sustained	Hol pay is incentive pay & not barred as duplication of OT payment.
FMCS	Falls Memorial Hospital AFSCME, Minnesota Council 65	Kircher, Andrea	1 day suspension	LPN allegedly discourteous to a RN.	Sustained	Failure to use progressive discipline and defective investigation.
06-PN-0486	Hastings, City of (Interest Award) Law Enforcement Labor Services, Inc.	Miller, Richard	Interest	Firefighter's final offer total package. Union seeking 19.6% for 2 yrs. based on pay equity with police.	2006 - 3% 2007 - 3.5%	City's position. History and internal pattern.
FMCS	Highland Chateau Health Care Center UFCW, Local 789	Anderson, Richard	Termination	Assistant accused of bruising a resident and insubordination.	Sustained	Flawed investigation. No acts worthy of discipline.
07-PA-0769	ISD 197, West St. Paul SEIU, Local 284	Scoville, James	Unit work	Para's serving breakfast at 2 schools which is food service work.	Denied	Practice is 9 years old. Grievance is untimely.
07-PA-0408	Maplewood, City of Law Enforcement Labor Services, Inc.	Befort, Stephen	Probation	Officer on medical leave for 1 yr, put on probation when allowed back to wk.	Denied	Not arbitrable. No bar to a 2nd probation in contract.
07-PN-0516	Maplewood, City of (Interest Award) Law Enforcement Labor Services, Inc.	Paull, David	Interest	Wages: 2007-3.5% (e-3%, u-4.5%).	2007 - 3%	External - maintains market ranking.
07-PN-0026	Olmstead County (Interest Award) Law Enforcement Labor Services, Inc.	Miller, Richard	Interest	Jail Sgts, 1st contract. Wages-2%-e (u-3.5%); 2 wk schedule posting-u; OT language-no-e; Call back-u; "Step" language-u; Probation language-e	2007 - 2%	Wages-internal; 2 wk posting, call back, step & probation-internal pattern. OT-FLSA exempt employees-issue being heard at Dept of Labor;
FMCS	Smead Manufacturing Company United Steelworkers of America, Local 717	Gallagher, Thomas	Termination	Took notebook ees put together to help setup machinery fearing loss of wk by untrained ees using book.	8 mo susp.	Mitigation - thought book belonged to employees who put it together & admitted taking book.

06-PA-0971	Special School District 1 Minneapolis Federation of Teachers	Gallagher, Thomas	5 mo suspension	Teacher slapped students hand.	30 day susp.	Teacher under great stress. Not premeditated corporal punishment.
07-RA-0129	Super Valu, Inc. Teamsters, Local 120	Daly, Joseph	Termination	Excessive absences. Failed to provide FMLA documentation.	18 mo susp	He had a medical condition, but was his responsibility to document.

June, 2007

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
FMCS	American Crystal Sugar Company Bakery Workers Local 372G	Anderson, Richard	Layoffs	Laid off some seasonal workers who were replaced with full time ees.	Denied	Union claimed past practice required laying off all or retaining all. Contract clear - no past practice established.
05-RA-0190	Immanuel St. Joseph's Hospital AFSCME Minnesota Council 65	Reynolds, James	Pager pay	Seeking pay if required to wear pagers or respond to calls during breaks	Denied	Mngmnt right to order wearing pagers, monitoring not compensable. Breaks must be reschedld/paid if interrupted.
07-PA-0137	ISD 413, Marshall Marshall Education Association	Anderson, Richard	Coaching Pay	Seeking coaching compensation while on sick leave (only worked 1 day)..	Sustained	Sick leave language does not exclude coaching pay.
FMCS	Johnson Brothers Liquor Company Teamsters, Local 792	Frankman, Janice	Restricting Vac usage.	Company barred vacations on short Holiday weeks due to increased bus.	Denied	Management right. No requirement to hire vac temporaries to allow vacs.
07-PA-0701	Metropolitan Council - Metro Transit Amalgamated Transit Union Local 1005	Holmes, Barbara	Termination	Bus mechanic injured on job was working at his auto repair business while receiving worker compensation.	Denied	Numerous misrepresentations over a 2 month period. Caught on video.
FMCS	Sauer Memorial Home UFCW, Local 789	Jacobs, Jeffrey	Minimum hours for insurance.	Volunteered to have hours reduced if necessary - fell bellow full-time and lost insurance coverage.	Sustained	Reduction was for employers purpose therefore this is an exception per contract.
06-PN-0882	Wright County (Interest Award) Teamster 320, Ess. Supervisory Unit	Ver Ploeg, Christine	Interest	3 yrs-e (u-2y); 2%, 2.75%, 2.75%-e (U-4.24%, 4%, 3%); 1 1/2 Hol pay-n-e Uniform-u; Leg funding wage freeze-no	2006 - 2% 2007 - 2.75% 2008 - 2.75%	Lt, group. Duration/Wages-internal. Hol pay- exempt ees & prior arb; Uniform-internal.
06-PN-0864	Wright County (Interest Award) Teamsters 320, Non-Licensed, Ess.	Ver Ploeg, Christine	Interest	Uniforms-u; Salary adjustment-n-e Severance for Comm ees-e (u-amount same as jailers); Shit differential-no-e.		Uniform-intnl; Salary-reclassification is a mangmnt right; Severance-new benefit same as courthouse.

May, 2007

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
FMCS	Electrolux Home Products IAMAW District Lodge 168, Local 165	Bognanno, Mario	Termination	No-fault absentee policy considers 3 consecutive days w/o calling in a resignation. EE was in jail.	Denied	Policy is valid, clear & enforced. Failure to call is required even if ER knew grievant was in jail.
06-PA-1255	ISD 623, Roseville Education Minnesota - Roseville	Fields, Bernice	Step Placement	Teacher lacking 15 required credits frozen at step for 2 yrs & only moved 1 step when achieving credits.	Denied.	Management right. Contract silent on issue. Ruling on merit in spite of timeline - issue may arise in future.
			Timeline	Union claims continuing violation.	Denied.	Continues to each paycheck only until Union is aware of violation.
???	Minnesota, State of, Natural Resources Middle Management Association	Jacobs, Jeffrey	Termination	Defrauding state claiming expenses for personnel trips.	Split-reinstate - no back pay (12 months).	- Business purpose for trips. Guilty of lax record keeping & directing ee to perform personal errand.
06-RA-1240	Supervalu, Inc. Teamsters, Local 120	Bard, Stephen	Termination	Violation of attendance policy.	Denied	Attendance policy was applied reasonably and fairly.
06-PA-178	University of Minnesota AFSCME, Minnesota Council 5	Jay, Sara	Termination	Loud & threatening to supervisor. Arrested by police & charged w DOC.	Denied.	2 previous suspensions for similar behavior. Anger directed at suprvr.
07-PA-0610	Winona, City of AFSCME, Minnesota Council 65	Jay, Sara	Written Warning	Union president disciplined for using city computer to conduct Union bus.	Sustained	Award discusses Union protected activities.
06 PN 0904	Winona, City of (Interest Award) Firefighters, Local 575	Daly, Joseph	Interest	Firefighters; total package final offer. Wages identical. Union seeking incr. premiums for medics & specialists.	2006 - 2%/1% 2007 - 3%	City's position awarded. Insufficient evidence to support any increase to existing premiums.

April, 2007

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
FMCS	Honeywell International, Inc. Teamsters, Local 1145	Befort, Stephen	Termination	Violation of Time and Attendance policy.	Denied.	Employer has right to establish reasonable work rules.
07-PA-0349	ISD 13, Columbia Heights Columbia Heights Federation of Teachers	Daly, Joseph	Step Placement	New hire placed in step 3 of expiring, but continuing contract. New contract eliminated 1st step-Union wants 3rd step in new contract ignoring continuing contract.	Sustained	Never worked in years covered by old contract. Current ees at step 3 of old contract will make less than new new hire.
07-PA-0004	ISD 316, Greenway Coleraine Education Minnesota - Greenway	Bognanno, Mario	Retiree Insurance	Missed timelines? - no. Change to retiree contribution	Denied.	Alleged violation is continuous. Contract language rules despite Union denying negotiating it.

07-PA-0395	ISD 911, Cambridge SEIU, Local 284	Jacobowski, Daniel	FLSA Overtime calculation.	Should paid non-work hours be used to calculate overtime? District gave notice it repudiated the practice.	Sustained	Hours worked means you must work the hours over 40 for OT. District's interpretation reduces other benefits.
07-PA-0544	Metro Transit Amalgamated Transit Union, #1005	Bognanno, Mario	Denied placement on Operator list.	Bus cleaner/p.t.driver went to light rail then came back as cleaner-not put on pt driver list due to safety concerns.	Denied	Contract gives employer right to determine who is on list and treated same as others.
FMCS	Minnesota Valley Electric Cooperative IBEW, Local 160	Frankman, Janice	Safety Policy	ER unilaterally changed discipline in the safety policy.	Sustained	Discipline is a mandatory subject of negotiations.
06-PA-1221	Northfield, City of	Miller, Richard	Forcing use of Comp time	Officer ordered to reduce comp time to 80 hrs. Dept denied his choice of days & assigned days off.	Denied	Christensen v Harris US supreme ct allowed assigning time. Nothing in contract bars practice.
06-PA-1256	Law Enforcement Labor Services, Inc.					
06-PA-0741	Prior Lake, City of Law Enforcement Labor Services, Inc.	Gallagher, Thomas	OT to less senior employee.	Union seeking seniority bidding on OT that is an extension of a shift.	Denied	Contract requires seniority for an OT shift - defined as having 3 breaks.
06-PA-1215	Roseville, City of Law Enforcement Labor Services, Inc.	Daly, Joseph	Sgt working OT	Sergeants given Officer's OT work.	Denied	Past practice.
07-PA-0106	Sauk Centre, City of Teamsters, Local 320	Gallagher, Thomas	Termination	Officer accused of insubordination & theft of rifle and pistol from prop room.	10 mo. susp.	Lack of evidence or intent. Returned to wk with no backpay.
06-PA-0751	University of Minnesota Teamsters, Local 320	Holmes, Barbara	Termination - LC	Last chance agreement - absences.	Denied	Union argued absences were exempt chronic illness - lacked documentation.

March, 2007

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
07-PA-0316	Baxter, City of AFSCME, Minnesota Council 65	Kircher, Andrea	Eliminating Job - laying off ee.	Brainerd ISD 181 took over admin of city's recreation fields - suprv laid off.	Sustained	Considered subcontracting. Contract bars job loss due to subcontracting.
FMCS	Goebel Fixture Company Carpenters, Joiners & Cabinetmakers, Local 1864	Jacobs, Jeffrey	Attendance Policy	Reasonableness of no-fault policy. Award examines how arbitrators view attendance policies.	Denied	Reasonable if designed to further a legitimate interest & provides options for unexpected events.
06-PA-1283	ISD 31, Bemidji Bemidji Education Association	Gallagher, Thomas	Ltr of Reprimand involuntary transfer	Failure to cooperate in providing EBD service. Transfer due to conflict with other staff members.	Sustained	No evidence of being uncooperative. Transfer decision made prior to required meeting w teacher.
05-PN-0893	ISD 197, West St. Paul	Frankman, Janice	Selection of Insurance carrier.	District Court ordered arbitration over Unfair Labor Practice claim unilateral selection of insurance carrier was allowed by contract language.	Union position	Contract does not supersede MS 471.6161 bar to reduction of aggregate value of insurance. Damages = amount of premium savings.
05-PN-0894	SEIU, Local 284					
06-PA-0769	Metro Transit Amalgamated Transit Union Lcal 1005	Lundberg, James	Termination	Bus driver w 4 accidents in 2 1/2 yrs,	Denied	Violated valid, well understood policy. Received progressive discipline.
07-PA-0543	Metro Transit Amalgamated Transit Union Lcal 1005	O'Toole, Carol Berg	Termination	Bus driver; excessive absenteeism and accidents.	Denied	Clear policy and proper counseling. Short term employee.

07-PA-0328	Minnesota, State of, Department of Administration AFSCME Minnesota Council 5	Lundberg, James	Termination	TV news crew caught maintenance worker drinking beer & smoking pot. Also left work w/o permission.	9 mos. susp.	27 yr employee w good work record. Self reported violations in detail. Joined AA. Returned w no back-pay.
07-VP-0442	Minnesota, State of, Department of Natural Resources Individual Grievant	Befort, Stephen	Termination - VP	DNR Lt failed to respond to call a man had fallen into the water.	Denied	A good long-term employee, but he failed to fulfill his core public safety responsibilities.
06-PA-0924	Oakdale, City of	Befort, Stephen	Invest w/o Union	Off claims Capt did disciplinary invest w/o a Union representative present.	Denied	Officer initiated the meeting & since facts not disputed no prejudice results.
06-PA-1174	Law Enforcement Labor Services, Inc.		1 day suspension	Disobeyed Sgts order not to conduct interview of girl using Hmong officer. Claims it was only a conversation.	Denied	Was insubordinate. Gathering info is an investigation.
06-PA-1074	Supervalu, Inc. Teamsters, Local 120	Gallagher, Thomas	Termination	Unexcused absences in violation of no-fault policy.	Denied	Just cause to discharge when conduct has significant adverse effect.
FMCS	University of St. Thomas Teamsters, Local 120	Jacobs, Jeffrey	Termination	Harassing and inappropriate language. 3 writtens-no prior suspensions.	Denied	Contract has lower standard than Just Cause.- Legitimate Business reason.

February, 2007

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
FMCS	Honeywell Teamsters, Local 1145	Jacobs, Jeffrey	Termination	Received "Blk History Month" text to slap 5 white co-workers, got black co-worker to join her slapping whites and lied about incident.	11 mo. susp.	Found mitigation that victims did not know racial intent of grievant. See Flagler below where co-worker's grievance was denied.
FMCS	Honeywell International Teamsters, Local 1145	Flagler, John	Termination	She took 2 vacation days when there were restriction-putting her over her negotiated level of absences.	Sustained	Company did not give sufficient notice that she could not take vacation off.
FMCS	Honeywell International Teamsters, Local 1145	Flagler, John	Termination	Black History month text message to slap 5 white co-workers was acted on by tapping them on check, & she lied about the text message.	Denied	Violation of Code of Conduct by creating racial discord & unrest in workplace. And lied about material aspect of incident. See Jacobs above.
06-PA-1220	ISD 11, Anoka-Hennepin Anoka-Hennepin Education Minnesota	Bard, Stephen	Pay for Extra-Curricular assign.	Extra-curricular assignment pay if working at multiple assignments.	Union	Based on Andover exception - never communicated to Union.
06-PA-1053	ISD 726, Becker Becker Education Association	Boyer, John	Overload Pay	Special Ed teacher seeking back-pay for prep time not taken	Denied	Teacher had freedom to set own schedule and should have included prep time.
???	Minneapolis, City of - Convention Teamster, Local 320	Befort, Stephen	Termination	Unauthorized smoking break.	Denied	17 coaching and disciplinary efforts over a 2 year span.
06-PA-1225	Minnesota, State of, Minneapolis Veterans Home AFSCME Minnesota Council 5	Toenges, Rolland	Termination	Violence towards a co-worker. Angry she was using a cart he wanted, he struggled with cart until she let go.	Denied	Although no priors, short term ee who had been counseled regarding employer's Violence Policy.

06-PA-0953	Minnesota, State of, DHS, MCOCS AFSCME Minnesota Council 5	Flagler, John	Termination	Aversive treatment procedures with a vulnerable adult.	Denied	Employment record reinforces the irremediability of her conduct
FMCS	St. Paul Pioneer Press Teamsters, Local 4	Daly, Joseph	Termination	Machine operator violated offensive behavior policy by harassing an assistant regarding his disability.	9 mo. susp.	Returned to work without back-pay (due to prior discipline). Case of lack of civility - not harassment.

January, 2007

BMS #	Employer/Union	Arbitrator	Issue	Details	Award	Basis/Argument
FMCS	Abbott Northwestern Hospital SEIU, Local 113	Flagler, John	Termination	Falsifying timecard. Punched in, then took his daughter somewhere w/o punching out.	Sustained	Was on sick leave and volunteering for charity event. Punched in so he could use truck. Written rep re truck.
FMCS	Ecowater Systems, Inc. Teamsters, Local 120	Befort, Stephen	Termination	Two factory workers fired for pushing and shoving each other.	20 day susp.	Initial reports of a 3 minute fight with a knife present were not proven.
06-PA-0199	Hastings, City of Teamsters, Local 320	Jensen, Eugene	2 day suspension	Sgt told not to talk to officer being investigation. Borrowed a tow strap from the officer.	1 day susp.	Evidence did not support Sergeant interfered. Failure to investigate this suspension, while not fatal, allowed alternate explanation to be considered.
FMCS	Honeywell Teamsters, Local 1145	Jacobs, Jeffrey	Termination	Violated no-fault attendance policy. His Dr. failed to extend his medical for reasons unknown.	Split	Rigid no-fault policies are not a "one size fits all" standard for just cause. Returned w no back-pay.
FMCS	Intek Plastics, Inc. IBEW, Local 949	Toenges, Rolland	Reasonable Accommodation	Union seeking accommodation due to inability to use piece of equipment.	Denied	Not disabled per ADA. Offered other work, but rejected it.
07-PA-0075	ISD 622-N.St. Paul-Maplewood-Oakdale IUOE, Local 70	Paull, David	Removal from driving duties	Driver had 2 accidents, 1 w injuries. Given custodial duties.	Sustained	Not discipline, but driving did not warrant removal & reassignment..
07-PA-0169	ISD 2899, Plainview-Elgin-Millville Education Minnesota Plainview-Elgin-Millville	Jensen, Eugene	Married eligible for 2 family insr. Contributions?	Districts merged w new contract. Plainview only allowed 1 to receive contribution, Elgin allowed both.	Sustained	Despite combined contract, ees will be governed by past practice of their respective old contract.
FMCS	Minnesota Electrical Cooperatives Electrical Workers, Local 160	Befort, Stephen	Premium Pay	Interplay between FLSA & CBA re premium pay obligations on Sat/Sun.	Sustained	On call added to regular for FLSA calculations then x2 per contract.
FMCS	Rainbow Foods UFCW, Local 789	Flagler, John	Termination	Clerk sold cigarettes to a minor after entering dob into register 3 times w "not for sale" message.	1 week susp.	Asked supervisor what message meant? She did not know - poor training by company.
02-PA-1107	St. Louis Park, City of Law Enforcement Labor Services, Inc.	Jensen, Eugene	Benefit accrual on workers comp.	Vacation and sick accrued at Workers Comp earning of 2/3 wages.	Sustained	Union not given chance to neg. change in policy.
FMCS	Spartech Plastics, Inc. Teamsters, Local 120	Jacobowski, Daniel	Termination	Excessive tardiness in violation of no fault policy.	Denied	Negotiated no fault policy therefore numerical penalty constitutes just cause. Prior discipline.
FMCS	Spartech Plastics, Inc. Teamsters, Local 120	Bognanno, Mario	Termination	Violated last chance agreement re absenteeism.	Sustained	Violation de minimus. Failed to notify BA of Last chance agreement.